

Attorney's Docket: 2003CH007
 Serial No.: 10/569,335
 Art Unit: 1751

REMARKS

The Office Action mailed March 13, 2008 has been carefully considered together with each of the references cited therein. The amendments and remarks presented herein are believed to be fully responsive to the Office Action. The amendments made herein are fully supported by the Application as originally filed. No new matter has been added. Accordingly, reconsideration of the present Application in view of the above amendments and following remarks is respectfully requested.

Claim Status

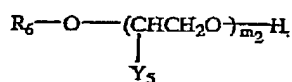
By this Amendment, Applicant has cancelled Claims 1 – 4 and amended Claims 5 and 10 – 14. Consequently, the claims under consideration are believed to include Claims 5 through 14.

Claim Rejections Under 35 USC § 103

Claims 1 – 14 stand rejected under 35 USC § 103(a) as being unpatentable over Traber, et al., (US Patent No. 6,200,948). This rejection is respectfully overcome.

The Office states,

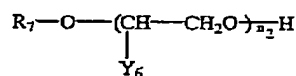
"With respect to claims 1 and 5, Traber discloses an aqueous textile auxiliary formulation comprising 10 – 60 wt. % of a nonionic surfactant component (a) having a formulate



wherein R₆ is a linear C₅-C₁₃ alkyl radical, Y₆ may be a hydrogen or methyl, and m₂ has an average value of 3 to 15 (Col. 1, line 12, Col. 2, lines 26-30 and Col. 2,

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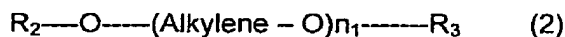
lines 50-62) and 10-60 wt. % of one or more nonionic surfactant component (b) having a formulate



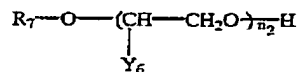
wherein R₇ is a linear C₈ – C₁₈ alkyl radical, Y₆ may be a hydrogen, methyl or ethyl, and n₂ has an average value of 1 to 40 (Col. 1, line 20, Col. 2, lines 26-30 and Col. 3, line 57 to Col. 4, line 5). Traber teaches the said aqueous textile auxiliary formulation may further comprises 0-20 wt. % of a third nonionic surfactant component (d) (Col. 1, lines 30-35 and lines 50-62). The disclosure of nonionic surfactant component (a), nonionic surfactant component (b) and optionally nonionic surfactant component (d) are considered readable on the claimed component (A) which contains at least two distinct alkoxylates of formula (I)."

Applicant respectfully can not agree. Traber, et al., disclose component (b) in each and every instance (Col. 1, line 20, Col. 2, lines 26-30 and Col. 3, line 57 to Col. 4, line 5), to be:

(b) 10 to 60% by weight of the reaction product of one or more than one nonionic surfactant of formula



or



(5)

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and an ethylenically unsaturated sulfonic acid or carboxylic acid or the anhydride thereof, (emphasis added). Component (b) is never the nonionic surfactant represented by formula (2) or formula (5).

Furthermore, component (d) of Traber, et al., is always terminated by an alkoxy group on both ends of the molecule. In stark contrast the instantly claimed alkoxylates (A1) and A2)), have at least one terminal hydroxy group.

A sustainable *prima facie* case of obviousness, requires that the prior art contain some suggestion or incentive that would have motivated the skilled artisan possessing common sense at the time of the invention to modify a reference or combine references in a manner to arrive at the claimed invention.

No where in Traber, et al., does the teaching or suggestion made to use the instantly claimed two different alkoxylates A1) and A2) rise to a level that could motivate an ordinary artisan possessing common sense at the time of the invention, to consider the cited reference as an equivalent, which is suitable as a substitution for the instantly claimed embodiment of the invention.

For at least the reasons stated above, regarding the lack of teaching, suggestion, or motivation provided by Traber, et al., Applicant is of the courteous position that the §103 rejections of Claims 5 – 14 have been overcome. Reconsideration and withdrawal of the §103 rejections of Claims 5 – 14 are respectfully and earnestly solicited.

Claims 1 – 4 have been cancelled by this Amendment, therefore the §103 rejections of these claims are moot.

As the total number of claims does not exceed the number of claims originally paid for, no fee is believed due. However, if an additional fee is required, the Commissioner is hereby authorized to credit any overpayment or charge any fee deficiency to Deposit Account No. 03-2060.

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In view of the forgoing amendments and remarks, the present Application is believed to be in condition for allowance, and reconsideration of it is requested. If the Examiner disagrees, he is requested to contact the agent for Applicant at the telephone number provided below.

Respectfully submitted,



Tod A. Waldrop
Agent for Applicant
Registration No. 56,260

(CUSTOMER NUMBER 25,255)

CLARIANT CORPORATION
INDUSTRIAL PROPERTY DEPARTMENT
4000 Monroe Road
Charlotte, NC 28205
(704) 331-7732
Fax (704) 331-7707